



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
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BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (RET.)
Second District, Lancaster

MICHELLE STEEL
Third District, Orange County

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
February 26-28, 2013

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, February 26, 2013

The following is a preliminary record of Board actions taken at the February 26-28, 2013 Culver City Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

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Board Committee Meetings— Please see Page 9, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

A. Homeowner and Renter Property Tax Assistance Appeals Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Appeals Hearings

B1. ~~Bret A. Curtis and Yecenia M. Curtis, 594236~~

B2. Richard B. Pallack, 527752

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B3. Brian D. Adler and Cheryl Adler, 601347

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	Abstain
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	No

B4. Alfred M. Humphries and Jill Humphries, 598220

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	No
	Mr. Chiang/ Ms. Mandel	No

B5a. Christopher Lim, 599567

B5b. Gregory J. Lim and Mya Lim, 599568

B5c. James E. Lim and Melinda Lim, 599575

B5d. Paul T. Liu and Christiana Liu, 599583

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied for lack of jurisdiction.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B6. Antonio Gallo, 595225

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied. The Board directed staff to inform the taxpayer of payment options.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B7. Richard A. Hall, 533898

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B8. Gabriel Rufus and Shirley Rufus, 599989

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

B9. Cornelis A. Van Diepen, 560406

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied. The Board imposed a \$750.00 frivolous appeal penalty.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C. Sales and Use Tax Appeals Hearings

These items are scheduled for Wednesday and Thursday, February 27-28, 2013.

D. Special Taxes Appeals Hearing

This item is scheduled for Thursday, February 28, 2013.

E. Property Tax Appeals Hearings
There are no items for this matter.

F. Public Hearings

- F1. Property Taxes - State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values
1. State assessee's presentations on capitalization rates and other factors and procedures affecting 2013/14 property values of California public utilities, railroads, and pipelines.
 2. Private railroad car assessee's presentations on factors and procedures affecting 2013/14 taxable values of private railroad cars.

G. Tax Program Nonappearance Matters – Consent**G1. Legal Appeals Matters**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-items 4, 5, and 15.	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
1. Charles W. Stevens, Jr., 484491, 605459 (EA)
 2. Gary David Becker, 496519 (UT)
 3. True Care Medical Supply, 539343 (AA)
 4. ~~Rafael Eduardo Delgado and Alexander Orantes, 549061 (AC)~~
 5. ~~Bar Codes Unlimited, Inc., 523577 (FH)~~
 - 6a. Rechem International, Inc., 433605 (AP)
 - 6b. Q.S.M. Enterprise, Inc., 433709 (AP)
 7. Gustavo De La Rosa, 486211 (AA)
 8. Paoli's Italian Kitchen, Inc., 381891 (AC)
 9. Techniform Metal Curving, Inc., 529775 (EH)
 10. Platinum Boat Works, Inc., 491247 (UT)
 11. Scenario Design, Inc., 533881 (AA)
 12. Hien Thu Tran, 525183 (EA)
 13. Juan O. Martinez, 556412 (EA)
 14. Lori A. Lewandowski and David Anthony Lewandowski, 550177 (AR)
 15. ~~Antique Portraiture, Inc., 532576 (AA)~~
 16. Daebak Investment, Inc., 556493 (AA)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
 1. James W. Fletcher and Lisa M. Fletcher, 604801
 2. Jerome James, 596166
- Decisions
 3. James Cline and Vera Cline, 578466
 4. Michael D. Hellman and Kara M. Munro Hellman, 588781
 5. Gordon R. Kindschi, 594033
 6. Richard Krulik, 561672
 7. Khosrow J. Motamedi, 592901
 8. Nextgen Web, LLC, 578135
 9. Keith Ponthieux, 572392
 10. Priscilla Rodriguez, 589179
 11. Rogelio Rodriguez, 586119
 12. William Tauchar, 573100
 13. Trim-Tex, Inc., 536303
 14. Christian W. Wilbert and Estate of Ilsa Wilbert (Deceased), 597671

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 13.

- Redeterminations
 1. Stephen J. Hansen, 486259 (UT)
 2. Timothy Allen Prero, 487585 (UT)
 3. Scott Michael Kmety, 624828 (FH)
 4. Rincon Industries, Inc., 604031 (GH)
- Denials of Claims for Refund
 5. GMRI, Inc., 625632 (OH)
 6. GMRI, Inc., 624783 (OH)

- Grant-One Day Interest Relief
 7. PA Acquisition Corp., 675647 (OH)
 8. Aeropostale West, Inc., 675630 (OH)
 9. Granite Construction Company, 675643 (GH)
 10. Trader Joe's Company, 668950 (AP)
 11. Arthur Koroyan, 675633 (DF)
 12. Party City Corporation, 675651 (OH)
 13. ASML US, Inc., 675635 (OH)
 14. Process Instruments & Controls, LLC, 675653 (DF)
 15. Hyphenet, Inc., 675645 (FH)
 16. Brocca, Inc., 675637 (CH)
 17. PA Acquisition Corp., 675649 (OH)
 18. G E K Enterprises, LLC, 675640 (FH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 19.

- Credit and Cancellation
 1. Corjen, Inc., 665547 (FH)
- Refunds
 2. LBS Financial Credit Union, 611754 (EA)
 3. Rusnak/Pasadena, 570832 (AP)
 4. Rusnak/Westlake, 570835 (AR)
 5. Calportland Company, 601367 (AP)
 6. AMVETS Dept. – California Service Foundation, 605543 (FH)
 7. Newport Corporation, 675510 (EA)
 8. Magnuson Corporation, 612118 (OH)
 9. Coxcom, Inc., 607817 (OH)
 10. Paradise Valley Hospital, 531178 (FH)
 11. Stanford University Hospital, 570549 (GH)
 12. Inter-State Oil Co., Inc., 626166 (KH)
 13. Regents of the University of California, 560151 (JH)
 14. VW Credit, Inc., 531401 (OH)
 15. Zenith Insurance Company, 531324 (AC)
 16. Chrysler, LLC, 649566 (OH)
 17. Lacerte Software Corporation, 600132 (OH)
 18. PNC Equipment Finance, LLC, 605538 (OH)
 19. Seagate Technology, LLC, 558351 (GH)
 20. EV Group, Inc., 613813 (OH)
 21. J.C. Penney Company, Inc., 605403 (OH)
 22. Teradyne, Inc., 654998 (OH)

23. Arrowhead Central Credit Union, 623749 (EH)
24. SchoolsFirst Federal Credit Union, 611719 (EA)
25. Americredit Financial Service, Inc., 633034 (OH)
26. Lobel Financial Corporation, 632989 (EA)
27. A-L Financial Corp., 609082 (EA)
28. Valencia B. Imports, Inc., 552837 (AR)
29. Pacific Biosciences of California, Inc., 566549 (BH)
30. Harley-Davidson Credit Corp., 611790 (OH)
31. New Albertsons, Inc., 559118 (OH)
32. Quality Financial, Inc., 549125 (AC)
33. Pacific Biosciences of California, Inc., 651376 (BH)

G6. Special Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not participating

➤ Relief of Penalty

1. Tesoro Refining and Marketing Co., 682019 (STF) 'CF'

There are no items for the following matters:

- G7. Special Taxes Matters – Credits, Cancellations, and Refunds
- G8. Property Tax Matters
- G9. Cigarette License Fee Matters
- G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

H1. Legal Appeals Matters

➤ Case Heard Not Decided

1. East Coast Foods, Inc., 444779 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
The Board ordered that the matter not be held in abeyance pending adoption of a summary decision for publication.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

➤ Case Heard Not Decided

1. ~~Daniel R. Marcotte, 589131~~2. ~~James J. Martin, 574254~~

3. Jimmy A. Prince, 535124

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

H3. Homeowner and Renter Property Tax Assistance Matters

H4. Sales and Use Taxes Matters

H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

H6. Special Taxes Matters

H7. Special Taxes Matters – Credits, Cancellations, and Refunds

H8. Property Tax Matters

H9. Cigarette License Fee Matters

H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

I1. Property Taxes Matters

There are no items for this matter.

I2. Offer in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

1. DMZ Wireless, Inc.

2. Kimberly Michele Manko

3. Esmail Sorkhpoo

I3. Local Tax Reallocation Matters

There are no items for this matter.

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session**N. Consent Agenda**

- N1. 2013/14 Excise Tax Rate Setting (Fuel Tax Swap) **(Rescheduled to Thursday, February 28, 2013)**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- N2. Approval of 2013/14 Diesel Fuel Tax Rate for Interstate Users
Component b

- N3. Prepayment Rate for Sales Tax on Motor Vehicle Fuel, Diesel Fuel
and Jet Fuel

O. Adoption of Board Committee Reports and Approval of Committee Actions

- O1. Legislative Committee – January 15, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/legdiv/legmeetings13.htm	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- O2. Business Taxes Committee – January 15, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/btc2013.htm	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

P. Other Administrative Matters**P1. Executive Director's Report****1. Employee Recognition Award Program**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved nominees.	Mr. Horton	Yes
	Ms. Steel	Absent
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. CROS Project Update and Actions**3. [Taxpayers' Rights Advocate's 2011-12 Property and Business Taxes Annual Report](#)**

There are no items for the following matters:

P2. Chief Counsel Report

P3. Sales and Use Tax Deputy Director's Report

P4. Property and Special Taxes Deputy Director's Report

P5. Administration Deputy Director's Report

P6. Technology Deputy Director's Report

P7. External Affairs Deputy Director's Report

Q. Closed Session



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STATE BOARD OF EQUALIZATION MEETING
5901 Green Valley Circle, Room 207, Culver City
February 26-28, 2013

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Wednesday, February 27, 2013

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C. Sales and Use Tax Appeals Hearings

C1. Rafael Wholesale & Distributor, Inc., 530276 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C2. Benalex Windows & Doors Corp., 446664 (AA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C3. Edward Louis Komski, 475346 (EA)~~

C4. Montana Ave Restaurant, Inc., 495272, 527587 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C5. Safwat Tawadros Salib and Wafaa Salib, 534396 (EH)~~

C6. Jerry Pena, 478061 (EH) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied. Approved staff's revised recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C7. Deanna Robinson Interiors, Inc., 519485 (EA) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied. Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C8. Richard Festo Bwogi, 514577 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied except finality and negligence penalties be relieved only under certain payment conditions.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	No
	Mr. Chiang/ Ms. Mandel	No

C9. Life Care Home Health & Medical Supplies, Inc., 495335 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C10. AF Services, LLC, 527382, 577082 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition and claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes



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Board Meeting

Special Presentations

2011/2012 Employee Recognition Award Program

Administrative Session

N. Consent Agenda

N1. 2013/14 Excise Tax Rate Setting (Fuel Tax Swap) (**Rescheduled from Tuesday, February 26, 2013**)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C. Sales and Use Tax Appeals Hearings**C11. T & M Steel Services, Inc., 530730 (EH) – Waived Appearance**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
Approved staff recommendation	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C12. Tri-Signal Integration, Inc., 384478 (AC)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Negligence penalty abated.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	No
	Mr. Chiang/ Ms. Mandel	No

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's remaining petition denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board ordered that the matter not be held in abeyance pending adoption of a summary decision for publication.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C13. — Stephan Sardaryan, 533112, 613435 (AS)~~

C14. Rafael Navarro Martinez, 587802 (AP) – Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
Approved staff recommendation.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C15. Francis Stephan Ghosal, 445460, 464724, 468127 (FH) – No Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petitions denied.	Mr. Horton	Yes
Approved staff recommendation.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

D. Special Taxes Appeals Hearing

D1. Loh Sun International, Inc., Kent La, Nancy La and John La, 480987, 480989, 506428 (STF)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	Yes
	Ms. Yee	Absent
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board ordered that the matter not be held in abeyance pending adoption of a summary decision for publication.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Absent
	Mr. Chiang/ Ms. Mandel	Yes